

This is an Excerpt only, for Purposes of the April 20 Special Meeting to Consider the Tomatek Proposal. The Full Minutes of March 27, 2009 will be Posted Later this Month on our Website.

**The Neil Jones Food Company dba Tomatek, Inc.
(Minutes in Verbatim Format)**

David Guzman: Panel Members, Tab #74 is a proposal for funding from The Neil Jones Food Company, dba Tomatek. Inc. (Tomatek).

Janice Roberts: We have two Panel Members who are going to recuse themselves; do you want to put that on record?

Maureen Reilly: Yes, please let the record reflect that Mr. Broad and Mr. Rendon have recused themselves and have also exited the room. They will not take part in any discussion on Tab #74.

Janice Roberts: We have lost a quorum.

Janine Montoya: These microphones don't work very well; the audience can't hear you.

Maureen Reilly: All right, let me repeat, Mr. Broad and Mr. Rendon have recused themselves from voting, participating in, or influencing the proposal by Tomatek at Tab #74. They have exited the room; as a result we have lost the quorum.

David Guzman: Tab #74 is a proposal for Tomatek in the amount of \$850,332. Tomatek plans to train 140 permanent and 415 seasonal employees. The training project is supported by a collective bargaining unit, Teamsters District Council No. 2. The union represents both permanent and seasonal employees.

David Guzman: Tomatek is a leading producer of industrial tomato products, fruit juice, concentrates, private label products and canned and pouch packed food products. This is Tomatek's second ETP proposal. The success of the baseline training under the active ETP agreement initiated one of the company's best seasons. The ETP funding provided the opportunity for Tomatek and the union to collaborate, developing growth opportunities for employees based in part on the ETP training. The result of this collaboration includes a negotiated pay increase for skilled positions, the hiring of additional workers and improved productivity. This proposal will enable Tomatek to offer concentrated training from April 2009 through June 2009, prior to start of the season. This training plan will include more advanced training than the initial product and will include both seasonal and permanent staff. According to company representatives, the seasonal staff return rate is 95 percent. Training will focus primarily on frontline workers. Tomatek has a training plan that is ready and available for implementation. Training topics include computer skills, continuous improvement, hazardous

improvement skills and manufacturing skills. This proposal requests a retention period of 500 hours within a 12-month period following completion of training for up to three employers in the crop production industry pursuant to Panel guidelines and statutory provisions for seasonal workers. Staff recommends approval of this project; and here to represent Tomatek are a long list of individuals, starting with:

Rick Palmer, Plant Manager of Tomatek
Hortencia Gabriel, Human Resources Manager of Tomatek
David Grabhorn, Vice President of Teamsters District Council No. 2
Maria Escalante, Union Member - Shop Steward, District Council No. 2
Teresa Ayala, Union Member – Shop Steward, District Council No. 2

David Guzman: I'd like to make note before I turn this over to these individuals. The Panel has received letters of support for this project from District Council No. 2; the Panel has also received a letter from Teamsters' Joint Council No. 7 that they, along with Teamsters Local 890, are adamantly opposed to the project. The Firebaugh location is represented and the exclusive bargaining agent is District Council No. 2, Local 338.

Rick Palmer: Well, first of all I'm sorry we cleared the room but I'd like to acknowledge comments made by the Chairman about the hard work of ETP staff. I'd like to thank Mr. David Guzman for presenting our proposal today; and Kerri Muraki, our ETP Project Analyst, who has been a great support to us. I think with her support, we've executed very well in our first year of funding. This is my second time before the Panel. I've heard on numerous occasions about companies who fail to perform. They are given money and don't use it, or don't use it correctly. I'll be happy to tell you that is not the case with our company. We've executed fully in our first year and I think that we are very happy to report that we have exceeded our own expectations, as well as many people on the ETP staff, as to how well we performed.

Rick Palmer: First, I'd like to say, that it may be very important to the Panel to understand that many of the training dollars we received in our first funding were passed immediately, or very quickly on to the hands of our employees. Due to the training that we embarked upon last year, many employees who had been laid off came in for training and were then paid additional wages, and then based on the training skills they acquired, their rates were increased immediately. Even though we are under a union bargaining contract, our wages were increased above what we were required to pay from our contract to acknowledge the training and the skills that these employees received. The number of employees receiving benefits increased as a direct result of the training. In only seven months after being awarded the ETP agreement last year, our benefit and employee base increased by 25 percent due to the additional training hours. Each of these employees now qualifies for medical, prescription drug, dental, vision, life insurance and retirement benefits. This amounts to the addition of over 50 employees.

Rick Palmer: Our wage scale has also been increased as part of a new union contract negotiation that was just ratified in December 2008 with overwhelming acceptance by the union. This represents an increase from .50 cents up to \$3.00 per hour, and these changes

were made not counting cost of living increases. These changes were just base rate increases to the job based on the skill levels that these employees have acquired.

Janice Roberts: Mr. Palmer, are these charges reflected in the proposal? Because it seems like you have \$13.00 per hour across-the-board here.

Rick Palmer: I don't believe these changes are reflected. These are new wages that just came in.

Janice Roberts: New wages that just came in. So now they are making \$16.00 per hour - is that what you are saying?

Rick Palmer: Employees earn wages that range up to \$26.00 per hour.

Janice Roberts: It just seemed like everybody was making \$13.00 per hour.

Rick Palmer: That's not correct, no.

Rick Palmer: This represents also a change in a skill progression that we negotiated with our union that now allows levels of progression; so as you acquire new skills, your wages increase. The Teamsters Local 380 and District Council No. 2, represented here, which is our union, has been a partner with us in this program since day one. They have endorsed the program and acknowledged the positive impact and the benefits their members have received and will continue to receive as we embark upon the additional training program proposed here.

Representing us today is two of our union shop stewards, Teresa Ayala and Maria Escalante, who can testify to the fact, as I said, that from the perspective of our joint training committee and our shop stewards, as well as bargaining committee members, that this has been a win-win situation for all. They represent over 573 employees who would like to continue training and can speak to the benefits that the employees have received themselves. Indirectly, the successful execution of our current ETP agreement, implementation of our joint training committee comprised of both union and management employees, has allowed the company to reinvest approximately \$6 million this year, and I'm talking since January 2009, and this is in new equipment and new processes for our business.

We are a company that is probably in the minority; we are growing and we have a lot of opportunity, and I think you'll agree in this economy, our ability to provide good paying jobs, increasing the earnings and potential of our employees, increasing the number of our employees receiving benefits, while providing additional jobs in the Central Valley, is at the very heart of what this ETP program stands for. I would ask, based on the merits and our success that you would base your decision based on how we've executed and what we have been given so far, our stewardship, and the monies that have been given to us.

In regards to the other letter that you received, speaking as a chief negotiator for the company and the Collective Bargaining Agreement contract, I am not aware that we had an

adversarial relationship with that union. Our intent has been and always will be to work in good faith to get a successful labor agreement. I am saddened by the letter, but it does not change our intention to move the work forward and get a labor agreement with them. I will tell you the only thing that has changed in that contract, is that it has gone one year without being ratified. I shouldn't say it hasn't been ratified, it's one year since its expiration last year. And the lack of getting this contract resolved has not had any impact on the company whatsoever. The union has not had time to meet, and the company has taken steps to push this matter forward. Our first mediation is next month, in April, to get the contract resolved; and the only thing that they have seen from the company are increases, and I can say that we've made increases across the board to the union employees of over four percent, that took place March 1, and that the company has done this on its own outside of the contract in good faith to keep this moving forward. So there is not an adversarial relationship here, and we continue to work forward to get this resolved as soon as possible.

Janice Roberts: Okay, thank you. Is there anyone else that is going to speak up here? I ask because we have time limits, as there are several persons with travel arrangement who may need to leave.

David Grabhorn: Thank you for the opportunity to say anything.

Janice Roberts: Oh, no problem; that's what we're about. We want to hear everyone.

David Grabhorn: My name is David Grabhorn, I am Vice President of Teamsters District Council No. 2 and the collective bargaining representative at Tomatek. We are not the collective bargaining representative at a sister corporation located 50 miles away in Hollister. They are represented by another organization and it is not my purpose for being here to criticize or to pass judgment on what's happening in Hollister in the other collective bargaining agreement that we have had nothing to do with and that Mr. Palmer was alluding to at the end of his remarks.

I'm here only to talk about the situation of Tomatek. That is the only place where we are requesting that a training grant be disbursed. We went into negotiations; this would be the third contract of Tomatek; and a problem as always, when we are trying to increase the wages, hours and conditions of employees, is that while there is a need and willingness on the part of the employer to pay more money, they have a need for more skilled workers. That is a situation that many employers all over the country find themselves in, which of course is why there are government programs such as this, to assist in the training of employees, so that the American employer can be competitive. And this proposal fits the bill, because in this situation we negotiated, for the first time, a joint training program, joint-labor management, with representatives of labor and management administering the training, passing on the tests, and formulating the program. As part of this, wage progressions were put into the contract, with higher skill levels specified and automatic pay increases once the person qualified by being trained. The training was anticipated to begin in April or May, before the agriculture season begins in late June or early July.

What is really causing us some distress is because we now have high paid jobs, or higher paid jobs relatively speaking, in the contract; but we don't have people who are qualified for them. Now there's only two ways to get somebody in those positions qualified and getting that higher wage. One way, is to train current employees, which is of course is what we want to do, that was our purpose to begin with, to justify the higher pay rate. The other way is, if that can't be done, is for the employer to try to find skilled people outside the current workforce. Which if that happens, could lead to a turnover in the workforce. Senior people may be unneeded because we've now hired, if we can find them, trained skilled people from the outside.

Janice Roberts: So is this the problem? Is this what the other union is having some issues with? I see two people behind you who want to talk, and I don't know if they are adversarial or what. I just want to know, are you the one representing labor in the Collective Bargaining Agreement for Tomatek?

David Grabhorn: We are saying, District Council No. 2 is supporting the request that funds be granted. We negotiated this training program; we need these funds to keep the current employees in it. This has nothing to do with Hollister; it has nothing to do with the sister corporation 50 miles away; whatever happens here is not going to affect Hollister. We really think that it's totally irrelevant to even consider that; having said that, we are not the enemies of people in Hollister. It's just not part, it shouldn't be part of this proposal; that's our position.

Janice Roberts: Yes, and it is not our position to start worrying about other union issues as well. I mean, we're here to make sure that we are doing the right thing for the people represented in collective bargaining.

David Grabhorn: As are we.

Janice Roberts: So with that, I'm going to ask other people that are waiting patiently here to talk. Then we'll figure it all out, and I have some comments myself.

Crescencio Diaz: Good afternoon. I am the President of Teamsters Local United in Salinas, California. We do represent a company within the area, which is owned by the same company that owns Tomatek. Okay, there are three reasons why we are opposing this proposal.

Janice Roberts: So do you work for Tomatek too?

Crescencio Diaz: No, I work for Teamsters Local United in Salinas.

Janice Roberts: Okay, so you don't work for Tomatek and you don't work for Neil Jones?

Crescencio Diaz: No, I work for Teamsters Local United and we, this Local, we represent another plant in Hollister that is called San Benito Foods, which is also a Neil Jones company, another plant that they have in Hollister.

Janice Roberts: Okay, that's a Neil Jones affiliate? I'm sorry, I couldn't hear.

Crescencio Diaz: Yes.

Janine Montoya: He works for a different union.

Janice Roberts: A different union, but a different union that represents employees at another Neil Jones company?

Crescencio Diaz: Correct. Alright, the two reasons why we are objecting to this grant is the following: One of them is I think they are masking the truth here about the health and welfare to the employees. They said that they have over 900 employees, which out those 900 employees, only about 80 employees, at the most, receive health and welfare, okay? So it's not totally true that they provide health and welfare to these people. Okay, they are pretty much trying to do the same thing in Hollister with the people that we have. We have been there for over 30 years at that plant where people do have health and welfare, everyone. Except for the new hires, but eventually they get it. So they want to the do the same thing, take away the health and welfare and limit it to only 40 or 50 employees. Okay?

The other reason is, because by doing this they undermine the whole industry. They can talk about this valley, about being able to compete. Most of the canners for this valley are organized under one single contract, which is called CPI. Most of these canneries, Del Monte, all of them, are under one single contract that provide benefits, health and welfare to all the employees. So I think if we are going to talk about fairness, it should be on equal terms, competing. That way, there is nobody else coming up with lists, money for employees, or benefits. Most of these plants, they are all at the same level of standards.

Janice Roberts: Okay, now have the employees that you represent or their company - have they come forward to the Panel to get funding as well?

Crescencio Diaz: No. We are here to oppose the grant.

Janice Roberts: Okay, is there a problem with your company coming for funding so everybody is equal across-the-board?

Crescencio Diaz: At this point we are not requesting any funding, and we are not involved in any. We are opposing it, based of the three reasons I just gave you.

Janice Roberts: Okay, very good, thank you. Next speaker.

Les Spahnn: Madame Chair and members of the Panel, my name is Les Spahnn and I'm here today on behalf of Assembly Member Juan Arambula, from Fresno. Assembly Member Arambula represents the community of Firebaugh, he has asked me to express his strong support for this proposal, he asked me to remind the committee that we have a serious problem with unemployment, particularly in Fresno County and in the West side of the Valley. The West side of the Valley has not only been hit with an economic recession, but we have a severe drought, over 600 thousand acres of land have been taken out of production. The community of Firebaugh has unemployment that exceeds 27 percent; other communities exceed 40 percent, some of the highest rates of unemployment in the State.

Mr. Arambula has been very, very supportive of the ETP, he believes in what you do, he has sponsored at least two, maybe three workshops in his district to bring you down there to get employers familiar with what you do and have them take advantage of what you have to offer. What you have to offer, particularly through a contract like this, is exactly what Mr. Arambula's district and the people of Firebaugh need. We recognize there are these external issues, and he hopes that they are resolved swiftly and amicably. But right now, given the severe problems with long-term joblessness in this area, Mr. Arambula urges you to take appropriate action and approve this project as soon as you can.

Janice Roberts: Okay, thank you very much.

David Grabhorn: One minute. I have one more comment, not on the merits. The problem is that the Panel can't make the decision as we sit here because you don't have a quorum. But the action, whatever way it goes, can't be delayed beyond May, or it's already decided. That is, simply by not deciding, it's denied. I just wanted to make that clear.

Janice Roberts: Okay, very good. I think I heard you talking before on the timeliness of this contract and we understand that. So what we have here is that staff has made their recommendation of this project based on the union letters and based on the validity of the performance of the first contract. I mean, in one year you completed almost a million dollars worth of training. That's unbelievable for that type of business, which is seasonal. My question is, why didn't we look at an amendment on this versus coming through with another contract since you had another whole year.

Rick Palmer: We did look at that, but we had used up all the hours for the employees.

Janice Roberts: Okay, so a new contract altogether. And the only other question I had was on the wages. The minimum wage for Fresno County is \$13.00. Why are you showing that everybody is earning \$13.00?

Brian McMahon: That just represents the lowest possible wage that anyone in that category can make. They could be falling somewhere in the middle.

Janice Roberts: Okay, very good, and that's really all I had. So at this point we can't vote on this proposal; we do have some opposition. What I wish that you could have done is got this all resolved before you came to the Panel, because we are not into any kind of union negotiation issues here.

Rick Palmer: I wish we would have. I didn't find out about this until about a day or two ago. There was no notice, so I apologize and we will resolve this one way or another.

Janice Roberts: Okay, very good. As far as we know it will be deferred to the staff to make the decision on how to proceed. I've got another speaker with his hand up. Do you want to talk for a minute?

*Speaker: **Speaker did not identify himself to the Panel. However, he had identified himself previously to Mr. Guzman as: Fritz Conle, Union Representative of General Teamsters*

Union Local 890. Less than a minute; to answer your question about the minimum wage at the Tomatek facility, the general labor people begin at \$8.00 per hour.

Janice Roberts: They go in making \$8.00 per hour? As a starting wage?

Fritz Conle: That's correct, that is what the contract says, for general labor.

Brian McMahon: So we have...well, that would be a problem if that is the case for earnings at the end of the training project.

Fritz Conle: We'd be glad to provide the actual contract.

Janice Roberts: Okay, but the staff had looked at this all when they considered wage requirements, going into this?

David Guzman: Yes, for the job classifications listed here. I'm not sure about general labor.

Janice Roberts: Okay.

Rick Palmer: The general labor is the entry level position with some very basic skills. Those employees are not included in the training.

Janice Roberts: Okay, so the \$8.00 per hour people are not included in this training of 500 employees.

Rick Palmer: Correct.

Brian McMahon: And we should point out also, that trainees have until completion of the training project before they are required to reach the wage level we have identified here.

Janice Roberts: Okay. If there is anyone else who wants to comment, we do have a public forum after we get done with this. So if anybody else wants to stand up and talk we can do that at that point, and it will all be on record, okay?

Brian McMahon: A final comment then, on the process going forward: Ms. Roberts has indicated that staff is recommending approval. We will move forward; we are sensitive to the company's time frame and we also want to give the full Panel an opportunity to vote on this project. We are not sure exactly what that structure will be at this point, but will move as quickly as possible.

Maureen Reilly: Excuse me. This is Maureen Reilly, General Counsel speaking. We need a full Panel quorum, absent Mr. Broad and Mr. Rendon. So we will still need to reach a quorum when we next present this matter to the Panel. We will be moving as soon as possible to try and resolve this.

Janice Roberts: Okay, very good, thank you all. Now, turning to Tab #75.